

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NEWMONT USA LIMITED and DAWN  
MINING COMPANY, LLC,

Defendants.

NO. CV-05-020-JLQ

ORDER RE: HEARING ON  
MOTIONS FOR SUMMARY  
JUDGMENT

DAWN MINING COMPANY, LLC,

Third-party Plaintiff,

vs.

ORTENCIA FORD and DONNELLY  
VILLEGOS,

Third-party Defendants.

On July 3, 2007, the court heard oral argument regarding the motions for summary judgment in the above-captioned matter. **Michael J. Zevenbergen, David Rosskam, Scott Jordan, Colleen Kelley, and Paul J. Gormley** represented the United States of America. **Mark W. Schneider, Matthew D. Diggs, and Karen M. McGaffey** represented Dawn Mining Company. **Nathan M. Longenecker, Michael R. Thorp, and Elizabeth Temkin** represented Newmont USA Limited.

This Order is intended to memorialize the oral rulings of the court. **IT IS HEREBY ORDERED:**

(1) The United States of America shall supplement the record concerning the allotments, including documents, within seven (7) days of the entry of this Order. If the supplementation is not by stipulation of the parties, Defendants shall have five (5) days to

1 file a response. No reply shall be filed thereto.

2 (2) Within ten (10) days of the date of this Order, the government shall file a  
3 response of not more than seven (7) pages to the cases and argument of Newmont during  
4 regarding the loaned-servant doctrine. No reply shall be filed thereto.

5 (3) All direct trial testimony, except for adverse witnesses, shall be presented by  
6 declaration. The parties shall exchange and file declarations of direct witness testimony  
7 on or before September 6, 2007. The witness shall be present at trial for cross-  
8 examination and thereafter, redirect testimony if requested by any opposing party.

9 (4) The parties shall provide the court will a glossary of terms, including a chain  
10 of command for the various agencies involved in this matter on or before **July 23, 2007**.

11 (5) The parties shall, to the extent possible, confer and stipulate to the facts prior  
12 to trial. On or before September 6, 2007 any party seeking to offer actual trial testimony  
13 shall serve and file a statement of specific disputed factual issues.

14 (6) The motions for summary judgment shall remain under advisement pending  
15 further order of the court.

16 **IT IS SO ORDERED.** The Clerk of this court shall enter this Order and forward  
17 copies to counsel.

18 **DATED** this 5th day of July 2007.

19 s/ Justin L. Quackenbush  
JUSTIN L. QUACKENBUSH  
20 SENIOR UNITED STATES DISTRICT JUDGE  
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